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T.R.A. DOCKET ROOM

April 7, 2005

Hon. Pat Miller, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

Re: *Petition of DIECA Communications, Inc., d/b/a Covad Communications Company for Arbitration of Interconnection Agreement Amendment with BellSouth Telecommunications, Inc., Pursuant to Section 252(b) of the Telecommunications Act of 1996*
Docket No. 04-00186

Dear Chairman Miller:

Covad Communications Company ("Covad") wishes to bring to the attention of the Authority Order No. 24,442 ("Order") issued by the Public Utilities Commission of New Hampshire ("Commission") on March 11, 2005. The Commission's Order addresses one of the key issues in the above-captioned proceeding before the TRA—whether there is a continuing obligation on the part of RBOCs to provide "line sharing" (i.e., the use of the high frequency portion of a local loop) to CLECs as an unbundled network element ("UNE").

As the Authority is aware, the FCC no longer requires RBOCs, such as BellSouth, to offer line sharing as a UNE under Section 251. However, as the New Hampshire Commission found in its Order, the FCC has indicated on several occasions that RBOCs must continue to offer line sharing pursuant to "checklist item 4" of Section 271. *Order* at 45-46.

Checklist item 4 requires RBOCs to offer CLECs "[l]ocal loop transmission from the central office to the customer's premises, unbundled from local switching or other services." *Id.* at 45. In its Order, the New Hampshire Commission determined that "local loop" includes the entire range of a loop's functionalities. *Id.* The Commission further explained that, "We understand the high frequency portion of the loop – or, more specifically, the use of that portion of the loop to provide DSL service – to be a 'functionality of the loop'." *Id.*

Based on this reasoning, the Commission concluded that Verizon, the RBOC involved in that proceeding, is required to offer line sharing under checklist item 4 in Section 271 and thus ordered Verizon to continue providing line sharing as part of its wholesale tariff. *Id.* at 49.


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A copy of the Order is on file with the Authority in Docket No. 04-00381.¹

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:


Henry Walker

HW/djc
cc: Guy Hicks

¹ The Order was filed in Docket No. 04-00381 on April 4, 2005